

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CRIM. NO: 20-CR-01370-KWR
)	
vs.)	
)	
JULIAN LUCAS GARCIA, III,)	
)	
Defendant.)	

**UNITED STATES' UNOPPOSED MOTION TO
CONTINUE THE JANUARY 18, 2022 SENTENCING HEARING**

The United States respectfully moves this Court to continue the January 18, 2022 sentencing hearing in this case for approximately 60 days and to permit the United States Probation Office additional time for filing its Presentence Report accordingly.

1. On September 17, 2021, Defendant was found guilty by a federal jury of all counts contained in the Second Superseding Indictment. Docs. 54, 130.
2. On September 20, 2021, the Court scheduled a sentencing hearing on January 18, 2022. Doc. 132.
3. On or about November 9, 2021, victim Jane Doe passed away.
4. The New Mexico Office of the Medical Investigator (OMI) is presently investigating the death and will issue findings related to Jane Doe's cause of death.
5. OMI has 60 days from the date its investigation began to complete and issue its report. Thus, the report due date is on or about January 8, 2022.

6. The United States has reason to believe that Jane Doe's death may be linked to the criminal conduct in this case – namely, being hit by the Off Highway Motor Vehicle driven by Defendant.

7. Such a finding would be relevant to the presentence report in this case and to the parties' positions vis-à-vis an appropriate sentence.

8. The presentence investigation report has not been filed.

9. The Local Rules for criminal proceedings in the United States District Court for the District of New Mexico require the United States Probation Office to furnish its presentence report at least 30 days prior to the sentencing hearing. D.N.M.LR-Cr. 32.C.

10. Given the current setting of January 18, 2022, the presentence report is likely due to the parties on or about December 19, 2021 – this week.

11. An approximately 60-day continuance of the sentencing hearing would result in a setting on or about March 18, 2022, as dictated by the Court's availability.

12. Operation of D.N.M.LR-Cr. 32.C. would then make the presentence report due to the parties on or about February 16, 2022 and would permit both parties 21 days to file initial sentencing pleadings (with a due date of about March 9, 2022).

13. Undersigned counsel for the United States is unavailable for court proceedings and for drafting pleadings for 21 days between January 31, 2022 and February 19, 2022 due to orders to active duty issued by the United States Marine Corps.

14. The proposed timeline would permit the United States Probation Office and counsel for the United States and for the Defendant ample time to interpret the forthcoming OMI report (if relevant), issue the presentence report and responsive pleadings, and to prepare for sentencing arguments in this case.

15. Given the federal crimes at issue in this case, the low-end of Defendant's guideline imprisonment range is likely to exceed the requested delay of this hearing. As of today, Mr. Garcia has served 91 days in jail. Any delay in sentencing caused by this request should not prejudice Mr. Garcia.

16. The United States contacted counsel for Defendant, Mr. Robert J. Gorence regarding the present motion and he does not oppose.

WHEREFORE, the United States respectfully moves this Court to continue the January 18, 2022 sentencing hearing in this case for approximately 60 days and to permit the United States Probation Office additional time for filing its Presentence Report accordingly.

Respectfully submitted,

FRED J. FEDERICI
United States Attorney

/s/ Filed Electronically 12/15/2021
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I HEREBY CERTIFY that I filed the foregoing pleading electronically through the CM/ECF system which caused counsel of record to be served by electronic means, as reflected on the Notice of Electronic Filing, and other methods of service as indicated therein on December 15, 2021

/s/
Alexander F. Flores
Assistant U.S. Attorney